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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NO. CV -DSF (x)

ORDER RE COURT TRIAL

I. ORDER RE DEADLINES:

A. Adding Parties or Amending Pleadings: _____

B. Discovery Cut-Off: _____

C. Expert Witness Exchange Deadline:
Initial _____; Rebuttal
_____; Cut-off _____

D. Motion Hearing Cut-off: _____

E. Settlement Conference Cut-off: _____

F. Final Pretrial Conference:
_____ at 3:00 p.m.

G. Trial Date: _____ at 8:00 a.m.

II. ORDER RE TRIAL PREPARATION

III. ORDER GOVERNING CONDUCT OF ATTORNEYS AND PARTIES

Plaintiff(s),

vs.

Defendant(s).

I

DEADLINES

A. **PARTIES/PLEADINGS**

The Court has established a cut-off date for adding parties or amending pleadings. All motions to add parties or to amend the pleadings must be noticed, and must be heard on or before the cut-off date. All unserved parties will be dismissed at the time of the pretrial conference pursuant to Local Rule 16-7.1.

B. **DISCOVERY AND DISCOVERY CUT-OFF**

1. Discovery Cut-off: The Court has established a cut-off date for discovery, including expert discovery if applicable. This is not the date by which discovery requests must be served; it is the date by which all discovery, including all hearings on any related motions, is to be completed.

2. Discovery Disputes: Counsel are expected to comply with all Local Rules and the Federal Rules of Civil Procedure concerning discovery. Whenever possible, the Court expects counsel to resolve discovery problems among themselves in a courteous, reasonable, and professional manner. The Court expects that counsel will adhere strictly to the Civility and Professionalism Guidelines (which can be found on the Court's website under "Attorney Information> Attorney Admissions").

3. Discovery Motions: Any motion challenging the adequacy of discovery responses must be filed, served, and calendared sufficiently in advance of the discovery cut-off date to permit the responses to be obtained before that date, if the motion is granted.

4. Depositions: All depositions shall commence sufficiently in advance of the discovery cut-off date to permit their completion and to permit the deposing

1 party enough time to bring any discovery motions concerning the deposition
2 before the cut-off date. Given the requirements to “meet and confer,” and notice
3 requirements, in most cases a planned motion to compel must be discussed with
4 opposing counsel approximately six weeks before the cut-off.

5 5. Written Discovery: All interrogatories, requests for production of
6 documents, and requests for admissions must be served sufficiently in advance of
7 the discovery cut-off date to permit the discovering party enough time to
8 challenge (via motion practice) responses deemed to be deficient.

9 6. Expert Discovery: All disclosures must be made in writing. The parties
10 should begin expert discovery shortly after the initial designation of experts. The
11 final pretrial conference and trial dates will not be continued merely because
12 expert discovery is not completed. Failure to comply with these or any other
13 orders concerning expert discovery may result in the expert being excluded as a
14 witness.

15 16 C. LAW AND MOTION

17 The Court has established a cut-off date for the hearing of motions. All
18 motions must be noticed so that the hearing takes place on or before the motion
19 cut-off date. Counsel are to provide chambers with conformed courtesy copies of
20 all documents. Courtesy copies should not be put in envelopes. Counsel should
21 consult the Court’s Standing Order, previously provided, to determine the Court’s
22 requirements concerning motions. A copy of the Standing Order is also available
23 on the Court’s website at www.cacd.uscourts.gov > Judges’ Procedures and
24 Schedules > Hon. Dale S. Fischer.

25 26 D. FINAL PRETRIAL CONFERENCE

27 1. A final pretrial conference date has been set pursuant to Rule 16 of the
28 Federal Rules of Civil Procedure and Local Rule 16-7. Unless excused for good

1 cause, each party appearing in this action shall be represented at the final pretrial
2 conference by the attorney who is to have charge of the conduct of the trial on
3 behalf of such party. Counsel should be prepared to discuss streamlining the trial,
4 including presentation of testimony by deposition excerpts or summaries, time
5 limits, stipulations as to undisputed facts, and qualification of experts by admitted
6 resumes. The Court encourages, but does not require, counsel to agree to submit
7 direct testimony of witnesses by way of declaration or written statement
8 confirmed under oath by the witness. See Local Rule 16-10.2(b).

9
10 E. SETTLEMENT PROCEDURES

11 A settlement procedure must be identified in every case pursuant to Local
12 Rule 16-14, et seq. The Court will normally be guided by counsel's agreement as
13 to what procedure is appropriate for the case and when the optimum time for that
14 procedure is. Counsel must, however, complete a settlement conference no later
15 than the date set by the Court at the scheduling conference. Not to the exclusion
16 of other procedures, the following are available:

- 17 (1) a settlement conference before the magistrate
18 judge assigned to the case;
- 19 (2) a settlement conference or mediation before
20 an attorney selected from the Attorney
21 Settlement Panel;
- 22 (3) the employment (at the parties' expense) of
23 a private judge, a mediator, or arbitrator.

24 Judge Fischer will hold a settlement conference at the request of the parties
25 in cases with a trial estimate of more than four days.
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II

ADDITIONAL TRIAL PREPARATION

A. MOTIONS *IN LIMINE*

All motions *in limine* must be filed at least three weeks before the final pretrial conference. Counsel are to meet and confer with opposing counsel to determine whether opposing counsel intends to introduce the disputed evidence, and to attempt to reach an agreement that would obviate the motion. Opposition must be filed ten days before the final pretrial conference. The Court will rule on motions *in limine* at the final pretrial conference. Motions *in limine* should address specific issues (i.e., *not* “to exclude all hearsay,” etc.). Motions *in limine* should not be disguised motions for summary adjudication of issues.

B. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. For any matter tried to the Court without a jury requiring findings of fact and conclusions of law, counsel for each party shall, no later than 21 days before trial, serve opposing counsel with three copies of their proposed findings of fact and conclusions of law in the format specified by Local Rule 52-3. An original, a copy and a courtesy copy shall be provided to the Court.

2. As to the proposed findings of fact and conclusions of law served by the opposing parties, each party shall:

- (a) Underline or highlight in red those portions that it disputes;
- (b) Underline or highlight in blue those portions that it admits; and
- (c) Underline or highlight in yellow those portions that it admits but considers irrelevant.

3. Counsel need not make a uniform determination as to an entire proposed

1 finding. Counsel may agree with a portion, dispute another portion, and consider
2 a portion irrelevant. Counsel are urged, however, to have only a single fact or
3 conclusion of law contained in each proposed finding.

4 4. Seven days before the trial date, each counsel shall file two marked
5 copies of the opposing proposed findings of fact and conclusions of law, and
6 serve one marked copy on opposing counsel.

7 5. The parties may submit supplemental proposed findings of fact and
8 conclusions of law during the course of the trial. If more than five supplemental
9 findings are proposed, the same underlining/highlighting procedure should be
10 used.

11 6. Each party must submit a disk in WordPerfect 9 or higher format
12 containing its proposed findings of fact and conclusions of law.

13
14 C. TRIAL EXHIBITS

15 1. Counsel are to prepare their exhibits for presentation at the trial by
16 placing them in binders indexed by exhibit number with tabs or dividers on the
17 right side. Counsel shall submit to the Court an original and one copy of the
18 binders. The exhibits shall be in three-ring binders labeled on the spine portion
19 of the binder as to the volume number and contain an index of each exhibit
20 included in the volume. Exhibits must be numbered in accordance with Local
21 Rule 16.5.

22 2. The Court requires that the following be submitted to the Courtroom
23 Deputy Clerk ("CRD") on the first day of trial:

24 a. The original exhibits with the Court's exhibit tags, yellow tags for
25 plaintiff and blue tags for defendant, shall be stapled to the front of the exhibit on
26 the upper right-hand corner with the case number, case name, and exhibit number
27 placed on each tag.

b. One bench book with a copy of each exhibit tabbed with numbers as described above for use by the Court. (Exhibit tags are not necessary on this copy.)

c. Three copies of exhibit lists.

d. Three copies of witness lists in the order in which the witnesses may be called to testify.

4. All counsel are to meet not later than ten days before trial and to stipulate, so far as is possible, to foundation, to waiver of the best evidence rule, and to those exhibits that may be received into evidence at the start of the trial. The exhibits to be so received will be noted on the extra copies of the exhibit lists.

D. TRIAL

Trial days are Tuesday through Friday from 8:00 a.m. to 1:30 p.m. with two fifteen-minute breaks, normally at 10:00 a.m. and 12:00 p.m. If the Court is engaged in a jury trial, the Court trial may be conducted during the afternoons if the parties prefer that approach to a continuance.

III.

CONDUCT OF ATTORNEYS AND PARTIES

A. OPENING STATEMENTS, EXAMINING WITNESSES, AND
SUMMATION

1. Counsel must use the lectern for opening statements, examination of witnesses, and summation.

2. Counsel must not consume time by writing out words, drawing charts or diagrams, etc. Counsel may do so in advance.

1 3. The Court will honor (and may establish) reasonable time estimates for
2 opening statements and closing arguments, examination of witnesses, etc.

3
4 **B. OBJECTIONS TO QUESTIONS**

5 1. Counsel must not use objections for the purpose of making a speech,
6 recapitulating testimony, or attempting to guide the witness.

7 2. When objecting, counsel must rise to state the objection and state only
8 that counsel objects and the legal ground of objection. If counsel wishes to argue
9 an objection further, counsel must ask for permission to do so.

10
11 **C. GENERAL DECORUM**

12 1. Counsel should not approach the CRD or the witness box without
13 specific permission. If permission is given, counsel should return to the lectern
14 when their purpose has been accomplished. Counsel should not question a
15 witness at the witness stand.

16 2. Counsel should rise when addressing the Court, and when the Court
17 enters or leaves the courtroom.

18 3. Counsel should address all remarks to the Court. Counsel are not to
19 address the CRD, the court reporter, persons in the audience, or opposing
20 counsel. If counsel wish to speak with opposing counsel, counsel must ask
21 permission to do so. Any request for the re-reading of questions or answers shall
22 be addressed to the Court. Such requests should be limited. Repeated requests
23 may not be granted.

24 4. Counsel should not address or refer to witnesses or parties by first
25 names alone. Young witnesses (under 14) may, however, be addressed and
26 referred to by first names.

27 5. Counsel must not offer a stipulation unless counsel has conferred with
28 opposing counsel and has verified that the stipulation will be acceptable.

1 6. While Court is in session, counsel must not leave counsel table to confer
2 with any personnel or witnesses in the back of the courtroom unless permission
3 has been granted in advance.

4 7. Counsel should not by facial expression, nodding, or other conduct
5 exhibit any opinion, adverse or favorable, concerning any testimony being given
6 by a witness. Counsel should admonish counsel's own clients and witnesses to
7 avoid such conduct.

8 8. Where a party has more than one lawyer, only one may conduct the
9 direct or cross-examination of a particular witness, or make objections as to that
10 witness.

11
12 D. PROMPTNESS OF COUNSEL AND WITNESSES

13 1. The Court makes every effort to begin proceedings at the time set.
14 Promptness is expected from counsel and witnesses. Once counsel are engaged in
15 trial, this trial is counsel's first priority. The Court will not delay the trial except
16 under extraordinary circumstances. The Court will advise other courts that
17 counsel are engaged in trial in this Court on request.

18 2. If a witness was on the stand at a recess, counsel must have the witness
19 back on the stand, ready to proceed, when the court session resumes.

20 3. If a witness was on the stand at adjournment, counsel must have the
21 witness adjacent to, but not on, the stand, ready to proceed, when the court
22 session resumes.

23 4. Counsel must notify the CRD in advance if any witness should be
24 accommodated based on the Americans with Disabilities Act or for other reasons.

25 5. No presenting party may be without witnesses. If counsel has no more
26 witnesses to call and there is more than a brief delay, the Court may deem that
27 party to have rested.

28 6. The Court attempts to cooperate with professional witnesses and will,

1 except in extraordinary circumstances, accommodate them by permitting them to
2 be called out of sequence. Counsel must anticipate any such possibility and
3 discuss it with opposing counsel. If there is an objection, counsel must confer
4 with the Court in advance.

5
6 E. EXHIBITS

7 1. Each counsel should keep counsel's own list of exhibits and should note
8 when each has been admitted in evidence.

9 2. Each counsel is responsible for any exhibits that counsel secures from
10 the CRD and must return them before leaving the courtroom at the end of the
11 session.

12 3. An exhibit not previously marked should, at the time of its first mention,
13 be accompanied by a request that the CRD mark it for identification. To save
14 time, counsel must show a new exhibit to opposing counsel before it is mentioned
15 in Court.

16 4. Whenever in counsel's opinion a particular exhibit is admissible, it
17 should be moved into evidence, unless tactical or other considerations dictate
18 otherwise.

19 5. Counsel are to advise the CRD of any agreements they have with
20 respect to the proposed exhibits and as to those exhibits that may be received so
21 that no further motion to admit need be made.

22 6. When referring to an exhibit, counsel should refer to its exhibit number
23 whenever possible. Witnesses should be asked to do the same.

24 7. Counsel must not ask witnesses to draw charts or diagrams nor ask the
25 Court's permission for a witness to do so. If counsel wishes to question a witness
26 in connection with graphic aids, the material must be fully prepared before the
27 court session starts.

1 F. DEPOSITIONS

2 1. All depositions to be used at trial, either as evidence or for
3 impeachment, must be signed and lodged with the CRD on the first day of trial or
4 such earlier date as the Court may order. Counsel should verify with the CRD
5 that the relevant deposition is in the CRD's possession and is properly signed.

6 2. In using depositions of an adverse party for impeachment, either one of
7 the following procedures may be adopted:

8 (a) If counsel wishes to read the questions and answers as alleged
9 impeachment and ask the witness no further questions on that subject, counsel
10 shall first state the page and line where the reading begins and the page and line
11 where the reading ends, and allow time for any objection. Counsel may then read
12 the portions of the deposition into the record.

13 (b) If counsel wishes to ask the witness further questions on the
14 subject matter, the deposition is placed in front of the witness and the witness is
15 told to read silently the pages and lines involved. Then counsel may either ask
16 the witness further questions on the matter and thereafter read the quotations, or
17 read the quotations and thereafter ask the further questions. Counsel should have
18 an extra copy of the deposition for this purpose.

19 3. Where a witness is absent and the witness's testimony is offered by
20 deposition, counsel may (a) have a reader occupy the witness chair and read the
21 testimony of the witness while the examining lawyer asks the questions, or (b)
22 have counsel read both the questions and answers.

23
24 G. USING NUMEROUS ANSWERS TO INTERROGATORIES AND
25 REQUESTS FOR ADMISSIONS

26 Whenever counsel expects to offer a group of answers to interrogatories or
27 requests for admissions extracted from one or more lengthy documents, counsel
28 should prepare a new document listing each question and answer and identifying

1 the document from which it has been extracted. Copies of this new document
2 should be given to the Court and opposing counsel. This procedure is intended to
3 save time.

4
5 H. ADVANCE NOTICE OF UNUSUAL OR DIFFICULT ISSUES

6 If any counsel has reason to anticipate that a difficult question of law or
7 evidence will necessitate legal argument requiring research or briefing, counsel
8 must give the Court advance notice. Counsel are directed to notify the CRD at
9 the day's adjournment if an unexpected legal issue arises that could not have been
10 foreseen and addressed by a motion *in limine*. See Fed. R. Evid. 103.

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13 IT IS SO ORDERED.

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16 DATED:

17 Dale S. Fischer
18 United States District Judge
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NO. CV DSF(x)

Plaintiff(s),

vs.

EXHIBIT LIST

SAMPLE FORMAT

Defendant(s).

EX. No.	DESCRIPTION	IDENTIFIED	ADMITTED

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NO. CV DSF(x)

Plaintiff(s),

vs.

WITNESS LIST

Defendant(s).

SAMPLE FORMAT

WITNESSES FOR PLAINTIFF	DATES OF TESTIMONY
	(to be filled in during trial)
WITNESSES FOR DEFENDANT	